



**Service of Process
Transmittal**

03/24/2014

CT Log Number 524632323

TO: Paula Malone
Covenant Dove, LLC
2723 Summer Oaks Drive
Bartlett, TN 38134

RE: Process Served in Texas

FOR: Fortress Health & Rehab of Rock Prairie, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Mildred Carlston, Individually and on Behalf of the Estate of John Carlton and on Behalf of All Wrongful Death Beneficiaries, Pltf. vs. Fortress Health & Rehab of Rock Prairie, LLC, etc., Dft.

DOCUMENT(S) SERVED: Citation, Original Petition

COURT/AGENCY: 361st Judicial District Court Brazos County, TX
Case # 14000424CV361

NATURE OF ACTION: Medical Injury - Improper Care and Treatment - 04/06/2013 - Fortress Health & Rehab of Rock Prairie, LLC

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Certified Mail on 03/24/2014 postmarked on 03/20/2014

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: At or Before 10:00 a.m. on the Monday next after the expiration of 20 days

ATTORNEY(S) / SENDER(S): Beth S. Janicek
Janicek Law Firm, PC
1100 NE Loop 410
Suite 550
San Antonio, TX 78209
210-366-4949

ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex 2 Day , 798320477272
Image SOP
Email Notification, Rosemary L Corsetti rosemary.corsetti@bipc.com
Email Notification, Mary Haney mary.haney@bipc.com
Email Notification, Paula Malone pmalone@covenantdove.com
Email Notification, Debbie Ashley dashley@covenantdove.com

SIGNED: C T Corporation System
PER: Beatrice Casarez-Barrientez
ADDRESS: 1999 Bryan Street
Suite 900
Dallas, TX 75201
TELEPHONE: 214-932-3601

EXHIBIT

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Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

CLERK OF THE COURT

Marc Hamlin
300 East 26th Street, Suite 1200
Bryan, TX 77803

ATTORNEY FOR PLAINTIFF

JANICEK, ELIZABETH S.
100 SANDAU, ste 101
San Antonio, TX 78216

THE STATE OF TEXAS

CITATION

NOTICE TO THE DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO Fortress Health & Rehab of Rock Prairie, LLC d/b/a Fortress Health & Rehab of Rock Prairie
RA: CT Corporation System who may be served at 1999 Bryan St., Suite 900 Dallas, Texas 75201-
3136 Defendant,

Greeting:

You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable 361st District Court of Brazos County, Texas at the Courthouse of said County in Bryan, Texas. Said Petition was filed on the 18th day of February A.D. 2014, in the case, numbered 14-000424-CV-361 on the docket of said court, and styled,

Mildred Carlton, Individually and on Behalf of the Estate of John Carlton and on Behalf of all
Wrongful Death Beneficiaries Plaintiff
VS.

Fortress Health & Rehab of Rock Prairie, LLC d/b/a Fortress Health & Rehab of Rock Prairie
Defendant

The nature of Plaintiff's demand is fully shown by a true and correct copy of Plaintiff's Original Petition accompanying this citation and made a part thereof.

The officer executing the writ shall promptly serve the same according to requirements of the law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and sealed of said Court at office, this the 21st day of February, 2014

Marc Hamlin
Clerk of Brazos County, Texas

By [Signature] Deputy

OFFICER'S RETURN

Came to hand on the _____ day of _____, 20____, at _____ o'clock _____ M.
Executed at _____, within the County of _____ at _____ o'clock _____ M.

on the _____ day of _____, 20____, by delivering to the within named _____

_____ each, in person, a true copy of this citation together with the accompanying copy of the petition, having first attached such copy of such petition to such copy of citation and endorsed on such copy of citation the date of delivery.

Total fee for serving this citation _____

Sheriff Account

To certify which witness my hand officially.

No. _____

For Clerk's Use

Taxed _____

Returned Record _____

Sheriff of _____ County, Texas
By _____ Deputy

*120 N
2/27/14
Sgt 7312*

CAUSE NO. 14-000424-CV-361

MILDRED CARLTON,
Individually and on Behalf of the
Estate of JOHN CARLTON and on
Behalf of All Wrongful Death
Beneficiaries

VS.

FORTRESS HEALTH & REHAB OF
ROCK PRAIRIE, LLC d/b/a
FORTRESS HEALTH & REHAB OF
ROCK PRAIRIE

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IN THE DISTRICT COURT

____ JUDICIAL DISTRICT

BRAZOS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES MILDRED CARLTON, Individually and on Behalf of the Estate of JOHN CARLTON, and on Behalf of All Wrongful Death Beneficiaries, Plaintiff in the above-styled and numbered cause (hereinafter called "Plaintiff"), complaining of FORTRESS HEALTH & REHAB OF ROCK PRAIRIE, LLC d/b/a FORTRESS HEALTH & REHAB OF ROCK PRAIRIE (hereinafter called "Defendants"), and for cause of action, would respectfully show unto the Court as follows:

I.

DISCOVERY PLAN

Pursuant to Rule 190.1 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff intends to conduct discovery in this case pursuant to a Level 3 Discovery Control Plan.

II.

PARTIES

Plaintiff, MILDRED CARLTON, is the wife of JOHN CARLTON, and a resident of College Station, Brazos County, Texas.

Defendant FORTRESS HEALTH & REHAB OF ROCK PRAIRIE, LLC d/b/a FORTRESS HEALTH & REHAB OF ROCK PRAIRIE is a Foreign Limited Liability Company and may be served with process by serving its Registered Agent for service, C T Corporation, System, 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136.

III.
JURISDICTION

The Court has jurisdiction in this case based on appropriate subject matter (medical malpractice) and based upon sufficient amount in controversy.

IV.
NOTICE

Plaintiff would show that, in accordance with TEXAS CIVIL PRACTICE AND REMEDIES CODE, §74.051 and §74.052, the Defendants herein have been placed on notice of Plaintiff's claims.

V.
VENUE

All or a substantial part of the events made the basis of this lawsuit occurred in College Station, Brazos County, Texas. Thus, pursuant to the CIVIL PRACTICE AND REMEDIES CODE § 15.002(a)(1), venue is proper in Bexar County, Texas.

VI.
FACTUAL BACKGROUND AND NEGLIGENCE

Plaintiff would further show that at all times relevant hereto, FORTRESS HEALTH & REHAB OF ROCK PRAIRIE, LLC d/b/a FORTRESS HEALTH & REHAB OF ROCK PRAIRIE, is a health care facility which held, and does hold itself out to the general public, including the Plaintiff herein, as a health care facility which is competent

and qualified to provide health care services, with all the necessary care and precaution expected of a health care facility.

JOHN CARLTON is an elderly person and owed the duty of reasonable care, taking into consideration his known mental and physical condition. On March 27, 2013, JOHN CARLTON was admitted to FORTRESS HEALTH & REHAB OF ROCK PRAIRIE, LLC d/b/a FORTRESS HEALTH & REHAB OF ROCK PRAIRIE following placement of a pacemaker. On April 6, 2013, JOHN CARLTON was found on the floor by his bed and complained of severe pain to right lower extremity. EMS was called and he was transferred to College Station Medical Center wherein he was diagnosed with an acute intertrochanteric fracture of the right femur. On April 7, 2013, he had surgery to repair the right femur fracture which consisted of a screw and side plate fixation of intertrochanteric femur fracture. On April 10, 2014 he was found to have a pulmonary thromboembolism on the right side and developed pneumonia. On April 15, 2013, JOHN CARLTON passed away. The death certificate states the immediate cause of death is sepsis, health care associated bacterial pneumonia with significant conditions contributing to death including pulmonary emboli and broken hip.

Plaintiff would show that as a direct and proximate result of the acts and/or omissions committed during the Defendant's substandard, inadequate and negligent medical care and treatment, JOHN CARLTON suffered severe injuries and extreme pain and death.

VII.
NEGLIGENCE

Plaintiff believes and alleges that Defendant **FORTRESS HEALTH & REHAB OF ROCK PRAIRIE, LLC d/b/a FORTRESS HEALTH & REHAB OF ROCK PRAIRIE** acting by and through their agents, agents by estoppel, ostensible agents, nurses, servants, representatives, and/or employees, committed certain acts and/or omissions in the medical/nursing care and treatment of the Plaintiff, **JOHN CARLTON**, which constituted negligence, and that such negligent acts and/or omissions include, but are not limited to, the following:

1. Failing to care plan properly;
2. Failing to do a proper fall risk assessment to prevent falls;
3. Failing to properly monitor medications; and
4. Failing to provide necessary care and services to attain and maintain the highest practicable physical, mental and psychosocial well-being.

Plaintiff would show that each and all of the above and foregoing acts and/or omissions on the part of the Defendant herein constitute negligence, and each and all were a direct and proximate cause of the injuries and damages sustained by the Plaintiff herein.

VIII.
DAMAGES

MILDRED CARLTON, on Behalf of the Estate of **JOHN CARLTON** brings this action for all of the Wrongful Death Beneficiaries pursuant to section 71.004(b) of the Texas Civil Practice and Remedies Code. As a proximate cause of the occurrence made the basis of this lawsuit, Plaintiff has sustained substantial damages to which she is

entitled under Sections 71.002 and 71.021 of the Texas Civil Practice and Remedies Code.

As a result of the occurrence, MILDRED CARLTON has sustained substantial damages to which she is entitled under the law more particularly as follows:

1. pecuniary loss;
2. loss of companionship and society; and
3. mental anguish.

Furthermore, as a direct result of the occasion in question, Plaintiff on behalf of the estate of JOHN CARLTON, deceased, is entitled to money damages for the conscious pain, suffering, and mental anguish that JOHN CARLTON sustained as a result of the incident. Plaintiff on behalf of the estate of JOHN CARLTON also bring this cause of action for funeral expenses which were incurred as a result of this incident and incurred on behalf of the estate of JOHN CARLTON.


IX.
JURY DEMAND

Plaintiff hereby requests a trial by jury.

WHEREFORE, PREMISE CONSIDERED, Plaintiff prays the Defendant be duly cited to appear and answer herein, and that upon final trial of this cause, Plaintiff has and recover a judgment of and from the Defendant herein, in an amount within the jurisdictional limits of this court, for both pre-judgment and post-judgment interest as allowed by law, plus costs of court, and for such other and further relief, both general and special, at law or in equity, to which the Plaintiff may be justly entitled.

Respectfully submitted,

JANICEK LAW FIRM, PC
1100 NE Loop 410, Suite 550
San Antonio, Texas 78209
210.366.4949 *Telephone*
210.979.6804 *Facsimile*
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By: 
BETH S. JANICEK
State Bar No. 00788495
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Attorneys for Plaintiffs